

3781. Adulteration of tomato conserve. U. S. v. 10 Cases, more or less, of Tomato Conserve. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 6093. I. S. No. 1357-k. S. No. C-126.)

On November 14, 1914, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 10 cases, more or less, of tomato conserve, remaining unsold in the original unbroken packages at Youngstown, Ohio, alleging that the product had been shipped, on or about October 23, 1914, and transported from the State of New York into the State of Ohio, and charging adulteration in violation of the Food and Drugs Act. The product was labeled: "Conserva Di Tomate Packed by our special process Rossa Guaranteed by American Conserve Co. under the Food and Drugs Act, June 30, 1906. Serial No. 9270. Trade mark (design, girl in foreign costume carrying basket of tomatoes and can of tomatoes) Marca Registrata Containing 1-10 of 1% of Benzoate of Soda and 15% of Salt. This can contains about 4 lbs. 12 oz. net weight. Tomato Conserve (design, medals of award and flags) American Conserve Co., New York. (Directions in English and Italian)."

It was alleged in the libel that the product in said 10 cases smelled sour and consisted in part of decomposed vegetable matter which was affected with and showed an abnormal quantity of yeasts and spores, together with bacteria and mold filaments, the presence of which in said tomato conserve rendered the same a filthy, decomposed, and putrid vegetable substance, unfit for food or as an ingredient of food, and on account of the condition of said tomato conserve it was charged that each and all the packages thereof were adulterated in violation of paragraph 6 under "Food" of section 7 of the act of Congress, commonly known and designated as the Food and Drugs Act.

On January 12, 1915, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *April 26, 1915.*